



DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS-FV-15-0019; FV15-944/980/999-2]

**International Trade Data System Test Concerning the
Electronic Submission through the Automated Commercial
Environment of Notification of Importation of Fruits,
Vegetables, and Specialty Crops Required by the
Agricultural Marketing Service Using the Partner
Government Agency Message Set**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: General notice and request for comments.

SUMMARY: The Agricultural Marketing Service (AMS) announces a pilot test of the International Trade Data System (ITDS) involving the electronic submission of data related to importations of fruits, vegetables, and specialty crops regulated by AMS, using the Partner Government Agency (PGA) Message Set component of the Automated Commercial Environment (ACE). The submission of this information is required under § 608e (section 8e) of the Agricultural Marketing Agreement Act of 1937. The pilot program will test the electronic transmission of AMS data through the U.S. Customs and Border Protection's

(CBP's) Automated Commercial Environment (ACE) program known as the Partner Government Agency (PGA) Message Set.

This data will be transmitted for review by AMS' Compliance and Enforcement Management System (CEMS). CBP's PGA Message Set enables importers and brokers to electronically transmit data required by AMS directly to ACE. This electronic process will replace the paper-based process currently used. This notice also invites importers and brokers who are importing commodities subject to section 8e regulations to request participation in this AMS pilot and invites public comment on any aspects of the pilot.

DATES: The test will commence no earlier than July 13, 2015, and will continue until concluded by publication of a notice in the **Federal Register** ending the test. Any party seeking to participate in the AMS PGA Message Set test should contact their CBP client representative.

Interested parties without an assigned CBP client representative should submit an email to Richard Lower at Richard.Lower@ams.usda.gov with the subject heading "AMS PGA Message Set Test FRN-Request to Participate."

Interested parties may submit comments about the pilot at any time as explained in the **ADDRESSES** section below.

ADDRESSES: Interested parties without an assigned CBP client representative should submit an email to Richard Lower at Richard.Lower@ams.usda.gov with the subject heading "AMS PGA Message Set Test FRN-Request to Participate."

Comments about the pilot should be made to either the Docket Clerk, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938; or on the Internet at <http://www.regulations.gov>. All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: <http://www.regulations.gov>. All comments submitted will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the Internet at the address provided above.

FOR FURTHER INFORMATION, CONTACT: Richard Lower, Senior Compliance and Enforcement Specialist, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS,

USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938; Email: Richard.Lower@ams.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

International Trade Data System (ITDS)

This test is in furtherance of the ITDS, which is statutorily authorized by section 405 of the Security and Accountability for Every (SAFE) Port Act of 2006, Public Law 109-347. The purpose of ITDS, as defined by section 4 of the SAFE Port Act of 2006, is to eliminate redundant information filing requirements, efficiently regulate the flow of commerce, and effectively enforce laws and regulations relating to international trade, by establishing a single portal system, operated by CBP, for the collection and distribution of standard electronic import and export data required by all participating Federal agencies.

The pilot program announced in this notice also supports Executive Order 13659, *Streamlining the Export/Import Process for America's Businesses*, signed by President Obama on February 19, 2014, which is a key White House economic initiative that has been under

development for over ten years and is mandated for completion by December 31, 2016. Under ITDS, importers and exporters will file commodity and transportation data through an electronic "single window," instead of completing multiple paper-based forms to report the same information to different government agencies. ITDS will greatly reduce the burden on America's international trade community while still providing information necessary to ensure compliance with U.S. law.

By the end of 2016, the ITDS "single window" will be presented to the import and export trade through CBP's Automated Commercial Environment (ACE). ACE is an automated and electronic system for processing commercial trade data that is intended to streamline business processes, facilitate growth in trade, ensure cargo security, and foster participation in global commerce, while ensuring compliance with U.S. laws and regulations and reducing costs for CBP and all of its communities of interest. ACE will be the primary system through which the global trade community will file information about imports and exports so that admissibility into the United States may be determined and government agencies, including AMS, may ensure compliance.

Partner Government Agency Message Set

The PGA Message Set is the data needed to satisfy the PGA reporting requirements. ACE enables the message set by acting as the "single window" for the submission of trade-related data required by the PGAs only once to CBP. This data must be submitted prior to the arrival of the merchandise on the conveyance transporting the cargo to the United States as part of an ACE Entry/Cargo Release or Entry Summary. The data will be validated and made available to the relevant PGAs involved in import, export, and transportation-related decision making. The data will be used to fulfill merchandise entry and entry summary requirements and will allow for earlier release decisions and more certainty for the importer in determining the logistics of cargo delivery. Also, by virtue of being electronic, the PGA Message Set will eliminate the necessity for the submission and subsequent handling of paper documents. All PGA Message Set participants are required to use a software program that has completed ACE certification testing for the PGA Message Set.

Further details about the AMS PGA Message Set being tested in this pilot program are provided below in the PGA Message Set/ACE Filing section.

Compliance and Enforcement Management System (CEMS)

In support of ITDS and the use of CBP's PGA Message Sets, AMS' Marketing Order and Agreement Division (MOAD) is developing a new automated system called the Compliance and Enforcement Management System (CEMS) that will replace and automate many of the systems MOAD has used in the past to ensure compliance with import and export regulations. CEMS will electronically link with the CBP ACE platform to create a "pipeline" through which data will be transmitted between CBP and MOAD. In this pilot, ACE will transmit PGA Message Set data to AMS via CEMS, which will streamline processes by eliminating the use of existing paper-based systems and expediting the conditional release of shipments for the purpose of inspection, prior to final release into the commerce of the United States.

Inspection Requirements for Imported Commodities

Section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674) (AMAA), provides that whenever certain commodities are regulated

under Federal marketing orders, imports of those commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, and/or maturity requirements as those in effect for the domestically produced commodities. The AMAA also authorizes AMS to perform inspections on those imported commodities and certify whether these requirements have been met. Parts 944, 980, and 999 of title 7 of the Code of Federal Regulations contain the grade, size, quality, and/or maturity requirements for fruits, vegetables, and specialty crops that are subject to section 8e regulations.

Prior to the entry of imported commodities that are subject to section 8e regulations, as listed on CBP Directive No. 3250-007B, importers are required to notify AMS inspection service personnel at the port of entry of the arrival of said commodities.

Current Paper-based Notification of Entry ("Stamp and Fax")

As noted above, an importer of a commodity listed on CBP Directive No. 3250-007B must now present AMS inspection service personnel who are stationed at the port of entry with a paper form that notifies AMS of the

incoming shipment and to request conditional release of the shipment from the port for inspection at another location. The paper form presented to AMS may be a CBP Form 3461 (Entry/Immediate Release), CBP Form 7501 (Entry Summary), or an invoice for the shipment. This paper-based process is commonly known in the trade, at CBP, and at AMS as the "stamp and fax" procedure.

Upon receipt of the paper form, AMS personnel determine whether an inspection is required (there may be situations when an import commodity is listed on CBP Directive 3250-007B, but it may be exempt from section 8e regulations and inspection; for example, some varieties of a commodity are exempt, or the regulations are not in effect during certain times of the year).

If inspection is not required, AMS personnel affix a stamp to the paper form indicating that the product is not subject to section 8e regulations. When inspection is required, AMS personnel affix a different stamp to the paper form, indicating the product is subject to section 8e regulations and will require AMS inspection at a location other than the port of entry, shortly after CBP conditionally releases the shipment. AMS returns the

form to the importer via fax, and the importer presents the stamped form to CBP.

Once the shipment arrives at the inspection destination, the importer must contact AMS to arrange for inspection of the product, which must be certified as meeting section 8e requirements before final release into the commerce of the United States.

PGA Message Set/ACE Filing

Under ITDS, the paper-based "stamp and fax" procedure described above is being replaced by an electronic process that will enable importers to transmit data required by AMS to CBP's ACE system using a PGA Message Set. This PGA Message Set contains data elements that correspond to information on AMS' form FV-357 (Notification of Entry, 8e Products and Fresh Fruits, Vegetables, Nuts and Specialty Crops). The use of the PGA Message Set will enable importers and brokers to enter information required by AMS directly into ACE, and ACE's integration with MOAD's CEMS will simplify and expedite the process of determining whether regulated products are admissible.

ACE will analyze the PGA Message Set data entered by an importer or broker to determine if inspection of a

shipment is required and will transmit the data to MOAD's CEMS. For those shipments that will require inspection, CEMS will automatically provide shipment information via email to the appropriate AMS inspection office. The data in ACE will also enable CBP to make the determination that a shipment may be conditionally released for inspection.

Once a shipment has arrived at the location where inspection will occur, the importer will contact the AMS inspection office to finalize arrangements for inspection.

Pilot Program Details

AMS will initially conduct the pilot at certain ports of entry. Participants should consult the following website to determine which ports are operational for the test and the date that they become operational: <http://www.cbp.gov/document/guidance/list-aceitds-pga-message-set-pilot-ports>.

This initial pilot may also be expanded to include additional AMS PGA Message Sets, some of which have Document Imaging System (DIS) components. DIS allows participants to transmit required PGA data to ACE through the use of electronic copies of AMS forms. For

information regarding the use of DIS and a list of PGA forms and documents that may be transmitted to ACE using DIS, please see <http://www.cbp.gov/trade/ace/features>.

Importers and brokers who participate in this pilot will transmit PGA Message Set data to ACE using the electronic data interchange known as the Automated Broker Interface, or ABI. The AMS data is required to determine whether inspection of the shipment is required, to send an email notification to AMS inspection offices about those shipments that will require inspection, and to provide CBP with information to determine whether to conditionally release the merchandise. The transmission of this PGA Message Set data will be done in lieu of importers and brokers filing CBP Forms 3461 and 7501 or a shipment invoice to AMS inspection service personnel at the port of entry prior to the arrival of shipments. AMS anticipates that this pilot program will help prepare for a successful transition from the paper-based "stamp and fax" process to the electronic entry and transmission of data to ACE/CEMS.

The data elements in the PGA Message Set are generally those found on the AMS Specialty Crops Inspection (SCI) Division form FV-357 (Notification of

Entry, 8e Products and Fresh Fruits, Vegetables, Nuts and Specialty Crops). These data elements are set forth in the Customs and Trade Automated Interface Requirements (CATAIR) guidelines for AMS, which can be found at the following Internet link:

<http://www.cbp.gov/sites/default/files/documents/AMS%20CATAIR%20Guidelines%20MARCH%202015.pdf>.

Pilot Program Participant Responsibilities

Importers and brokers who participate in this PGA Message Set pilot will be required to:

- File, when applicable, data elements contained in AMS form FV-357 for fruits, vegetables, and specialty crops listed in CBP Directive No. 3250-0078 and regulated under section 8e of the AMAA. All modes of transportation will be included in this pilot;
- Include PGA Message Set import filings only as part of an ACE Entry Summary certified for cargo release;
- Use a software program that has completed ACE certification testing for the PGA Message Set;
- Transmit import filings to CBP via ACE in response to a request for documentation or in response to a request for release information for certified ACE Entry Summaries; and

- Only transmit information to CBP that has been requested by CBP or AMS.

Waiver of Requirements and Regulation under the Pilot Program

For purposes of this pilot program, requirements under CBP Directive No. 3250-007B, Section 5.2 (*"Stamp and Fax procedure"*), will be waived for participants only insofar as eliminating the requirement to present paper CBP Forms 3461 or 7501 or invoices and instead requiring the electronic submission of data elements generally contained in AMS form FV-357.

This notice does not waive any other requirements under CBP Directive No. 3250-007B nor does it waive any requirements under section 8e of the AMAA (7 U.S.C. 601-674, § 608e) or under parts 944, 980, and 999 of title 7 of the Code of Federal Regulations (7 CFR 944, 7 CFR 980, and 7 CFR 999), which contain the section 8e import regulations for fruits, vegetables, and specialty crops, respectively.

Misconduct under the Test

A test participant may be subject to fines, civil penalties, and/or administrative sanctions as provided under the AMAA and/or may be removed from participation

in the pilot for failing to follow the terms and conditions of this pilot or for failing to abide by applicable laws and regulations that have not been waived by this notice.

Pilot Program Participant Eligibility and Application

AMS is initiating the pilot at certain ports as indicated on the following website:
<http://www.cbp.gov/document/guidance/list-aceitds-pga-message-set-pilot-ports>. AMS may expand the pilot to include other U.S. ports and, therefore, invites importers and brokers at any U.S. port to request to participate in the pilot. To be eligible to apply for and participate in the pilot, an applicant must:

- Be a self-filing importer or broker who has the ability to file ACE Entry Summaries certified for cargo release; and
- File entries for AMS commodities that are the subject of this pilot.

Any party seeking to participate in the AMS PGA Message Set test should contact their CBP client representative. Interested parties without an assigned CBP client representative should submit an email to Richard Lower at Richard.Lower@ams.usda.gov with the

subject heading "AMS PGA Message Set Test FRN-Request to Participate."

AMS will accept and consider requests to participate in the pilot starting on the date of this publication and will accept requests to participate for the duration of the test. AMS will notify the selected parties by email of their selection and the starting date of their participation (selected participants may have different starting dates). Any applicant who provides incomplete information or otherwise does not meet participation requirements will be notified by email and given an opportunity to resubmit a request to participate.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the PGA Message Set data that will be collected in this pilot has been previously submitted by AMS for OMB approval as a new information collection under OMB No. 0581-NEW. The new information collection (FV-NEW, "Notification of Entry, 8e Products and Fresh Fruits, Vegetables, Nuts and Specialty Crops") contains data elements that will be collected by CBP in ACE through the use of the PGA Message Set being tested in this pilot. The use of the PGA Message Set will

enable importers and brokers to enter information required by AMS directly into ACE, and ACE's integration with MOAD's CEMS will simplify and expedite the process of conditionally releasing shipments for inspection. Upon approval of this new information collection by OMB, a request will be made to merge the new form with the forms currently approved for use under OMB No. 0581-0125, "Regulations Governing Inspection Certification of Fresh and Processed Fruits, Vegetables, and Other Products."

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Dated:

Rex A. Barnes
Associate Administrator
Agricultural Marketing Service

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